IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

DARRELL WADE BARBEE,)	
Petitioner,)	
v.)	1:11CV238
ALVIN W. KELLER, JR.,)	
Respondent.)	
	O-R-D-E-R	

The Recommendation of the United States Magistrate Judge was filed with the Court in accordance with 28 U.S.C. § 636(b) and, on Oct. 9, 2012, was served on the parties in this action. Plaintiff filed objections to the Recommendation. (Doc. 13.)

The Court has reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's report. The Court adopts the Magistrate Judge's recommendation in full.

IT IS THEREFORE ORDERED that Respondent's Motion to Dismiss (Doc. 5) is **GRANTED** and that the Habeas Petition (Doc. 2) is **DISMISSED**. A Judgment dismissing this action will be entered contemporaneously with this Order. Finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

This the 21st day of November, 2012.

ÙNITED STATES DISTRICT JÙDGE